



## Final Regulation Agency Background Document

<b>Agency name</b>	Board of Audiology & Speech-Language Pathology, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 30-20
<b>Regulation title</b>	Regulations Governing the Practice of Audiology & Speech-Language Pathology
<b>Action title</b>	Requirements for provisional licensure
<b>Date this document prepared</b>	10/15/07

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

The amended regulations will: 1) establish requirements for provisional licensure in audiology for applicants who have met the educational and examination qualifications in order to complete their clinical experience; and 2) set out the requirements for supervision of persons practicing with a provisional license; and 3) specify that an applicant for full licensure in audiology must have completed their education, examination, and clinical experience resulting in certification from the American Board of Audiology (ABA) or the American Speech-Language & Hearing Association (ASHA).

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

On September 17, 2007, the Board of Audiology and Speech-Language Pathology adopted final amendments to 18VAC30-20-10 et seq., Regulations Governing the Practice of Audiology and Speech-Language Pathology in order to continue the provisions of the emergency regulations regarding provisional licenses and requirements for full licensure in audiology.

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

**18VAC30-20-10 et seq. Regulations Governing the Practice of Audiology & Speech-Language Pathology** are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6) provides the Board of Audiology & Speech-Language Pathology the authority to promulgate regulations to administer the regulatory system:

**§ 54.1-2400 -General powers and duties of health regulatory boards**

*The general powers and duties of health regulatory boards shall be:*

- ...
- 6. *To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...*

The legal authority to license and regulate audiologists may be found in the 2006 amendment to Chapter 26 of Title 54.1 of the Code of Virginia.

**§ 54.1-2604. Provisional license in audiology.**

The Board may issue a provisional license to an applicant for licensure in audiology who has met the educational and examination requirements for licensure, to allow for the applicant to obtain clinical experience as specified in the Board's regulations. However, a person practicing with a provisional license shall practice only under the supervision of a licensed audiologist in accordance with regulations established by the Board.

(2006, c. 97.)

**Purpose**

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

By the year 2008, all graduate programs in audiology will be transformed into doctoral programs, as the master's degree programs fade. Students in master's programs will be given until 2012 to complete didactic courses and clinical experiences to be eligible to obtain certification from the American Speech-Language and Hearing Association (ASHA). Currently, graduate programs in Audiology are transitioning into the doctoral program in which a student graduates with a Bachelor of Arts or Bachelor of Science degree and proceeds to a doctoral program. Formerly, the student would first obtain a master's degree before proceeding to a doctoral degree. The new transitional program requires a supervised post-graduate clinical experience. It is the general requirement within the profession to have all the students work under supervision during the post-graduate clinical experience. Our neighboring states- North Carolina, West Virginia, Maryland, and Kentucky provide some type of temporary, limited or provisional licensure for these students. The establishment of a provisional license allows students who have completed all of the didactic courses for a doctoral degree to be granted a license, yet they are supervised to ensure the needed training by a licensed audiologist to protect the consuming public prior to the issuance of the doctoral degree and full licensure to practice independently.

With the establishment of a provisional license, the Board will no longer grant full licensure to a student who has obtained a master's degree but has not completed any clinical experience. To be granted a full, independent license to practice audiology, it is necessary for public health and safety to require an applicant to have a certification of clinical competence from ASHA or certification awarded by ABA to assure competency to practice by having completed an accredited educational program and a supervised clinical experience.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.*

The amended regulations will: 1) establish the application fee of \$50 for provisional licensure; 2) set the requirements for granting a provisional license in audiology to include completion of the didactic coursework toward a doctoral degree and passage of a qualifying examination; 3) set a 18-month expiration date for the provisional license; and 4) set out the requirements for supervision and monitoring of persons practicing with a provisional license. As is currently included in the emergency regulations, the amended regulation will require an applicant to obtain certification from the American Speech-Language and Hearing Association (ASHA) or certification from the American Board of Audiology (ABA).

## Issues

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*

3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

- 1) The primary advantage to the public of having a provisional license in audiology is the accountable for the practice of such an individual in the care and treatment rendered to the public. While a provisional licensee must practice under the supervision of a preceptor, the provisional licensee is held responsible for the safe performance of those direct patient care tasks to which he has been assigned. There are no disadvantages; the Board will not be issuing a full license to an individual who is completing a clinical experience within the doctoral program, but the provisional license will enable a person to work in audiology while gaining practical experience.
- 2) There are no disadvantages to the agency or the Commonwealth.
- 3) There is no other pertinent matter of interest related to this action.

**Changes made since the proposed stage**

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
170 B	Subsection B applied to audiology applicants as well as speech-language pathology applicants.	<p>*The board may grant a license to an applicant <del>[for licensure as a speech-language pathologist]</del> who:</p> <ol style="list-style-type: none"> <li>1. Holds a master's <del>degree or its equivalent as determined by the board</del> <u>[degree or its equivalent as determined by the board]</u> or a doctoral degree from a college or university whose <del>[audiology and]</del> speech-language program is <del>[regionally]</del> accredited by the <u>[Council on Academic Accreditation of the]</u> American Speech-Language-Hearing Association or an equivalent accrediting body; and</li> <li>2. Has passed a qualifying examination from an accrediting body recognized by the board within three years preceding the date of applying for licensure in Virginia or has been actively engaged <del>[in the respective profession for which he seeks licensure as a speech-language pathologist]</del> <u>as a speech-language pathologist</u> for one of the past three consecutive years preceding the date of application.</li> </ol>	<p>*In subsection B, the proposed regulation would allow an audiology applicant to obtain a full license by meeting the educational and examination requirements without any clinical experience. The intent of the provisional license in audiology was to give someone a license with which to practice under supervision while gaining practical experience. In the final regulation, the Board has mirrored the emergency regulations currently in effect, rather than the proposed regulation. Therefore, subsection B sets out qualifications for licensure that <i>only</i> apply to speech-language pathology. Qualifications in subsection A (including certification by ASHA or ABA) are applicable to both professions. The amendment to subdivision 1 to reference the Council on Academic Accreditation is a clarification made in response to</p>

<p>171</p>	<p>Sets out the requirements for provisional licensure</p>	<p>Subsection A</p> <p>1. It is the “Council on Academic Accreditation” of the American Speech-Language-Hearing Association (ASHA) that accredits educational programs, rather than ASHA itself.</p> <p>2. Added the word “didactic” to specify that the applicant for a provisional license has successfully completed all the “didactic” coursework required for the doctoral degree as documented by the audiology program.</p> <p>Subsection B</p> <p>The term of a provisional license is expanded from 12 months to 18 months with the ability to renew for another 6 months.</p> <p>Subsection C.</p> <p>The clinical experience referenced in subsection C is required for certification by the American Speech-Language-Hearing Association, the American Board of Audiology or any other accrediting body recognized by the board. It is not specifically a requirement of licensure in section 170 A, so that reference was eliminated.</p> <p>Subsection D.</p> <p>A requirement for the supervisor to notify the board of the intent to provide supervision for a provisional licensee was added.</p>	<p>public comment.</p> <p>The amendment to subdivision 1 to reference the Council on Academic Accreditation is a clarification made in response to public comment.</p> <p>2. All applicants for a provisional license will be enrolled in a course to cover the practicum experience, so it is not accurate to require completion of “all the coursework” required for the degree in applying for such a license.</p> <p>The practicum requires a full 12 months, so an additional 6 months may be needed to complete the practicum, apply for licensure and obtain a full license. The extension to 18 months will allow a person to transition from a provisional license to full licensure without having to request an extension or pay a renewal fee.</p> <p>The change was made to clarify the regulation.</p> <p>Since the supervisor of a provisional licensee has responsibilities set out in regulation, the Board felt it was necessary for that person to acknowledge his/her intent to provide supervision.</p>
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**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

Commenter	Comment	Agency response
<p>Dr. Brenda Ryals (James Madison University)</p>	<p>Amend section 170 to reference accreditation by the Council on Academic Accreditation of the American Speech-Language-Hearing Association or an equivalent accrediting body. Regional accreditation is awarded to universities, but programs are accredited by the professional organization.</p> <p>Amend section 171 to refer to completion of the didactic coursework required for a doctoral degree. All applicants for a provisional license will be enrolled in a course to cover the practicum experience, so it is not accurate to require completion of “all the coursework” required for the degree in applying for such a license.</p> <p>Amend section 171 to allow a provisional license to expire after 18 months rather than the current 12 months. The practicum requires a full 12 months, so an additional 6 months may be needed to complete the practicum, apply for licensure and obtain a full license.</p>	<p>The Board amended the regulations as requested by the commenter.</p>
<p>Dr. Danny Gnewikow, Audiologist</p>	<p>Agreed with all the comments from Dr. Ryals</p>	<p>The Board amended the regulations as requested by the commenter.</p>

In the final action on regulations, the Board adopted the language of the emergency regulation in which full licensure for audiologists may only be granted after completion of the clinical experience. There was one comment on the NOIRA issued simultaneously with the emergency regulation, objecting to the change that would eliminate full licensure for an applicant with a master’s degree. After discussion with the commenter about the change, there seemed to be consensus that everyone applying for full licensure should have supervised clinical experience.

Since the language of the final amended regulation differed from the proposed regulation that was previously circulated, and the Board adopted the language that is currently in effect as an emergency regulation, an additional opportunity for public comment on the draft final regulations was offered. That language requires an applicant to have obtained supervised clinical experience resulting in certification by ASHA or ABA in order to qualify for full licensure.

The Board sent the draft regulation to all previous commenters and persons on the PPG notification list and requested that any comment be received by October 9, 2007; there was no comment offered.

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

<b>Current section number</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
80	Establishes the fees for applications and renewal	<p>Addition of a \$50 fee for an application for provisional licensure in audiology and a \$25 fee for renewal of the license.</p> <p><i>Review of credentials, processing and issuing a license will be functions required for this new activity. Board staff may need to consult with a committee of the board to determine eligibility if there are questions about credentials, especially the educational equivalency of a master’s degree. Therefore, the \$50 fee is considered minimal for a licensure application. Likewise, the \$25 fee for renewal is necessary to cover the ongoing costs for provisional licensees.</i></p>
170	Sets the requirements for licensure for audiologists, speech-language pathologists, and school speech-language pathologists	<p>Subsection B currently allows an applicant to obtain a license in audiology by having a master’s degree or its equivalent and passing the examination. With the passage of HB 354, the Board now has authority to issue provisional licenses to persons seeking licensure in audiology who have met the educational and examination requirements and need a license in order to practice in a clinical fellowship. Therefore, subsection B will only apply to persons seeking licensure in speech-language pathology. Persons seeking full licensure in audiology will apply with credentials set out in subsection A, which includes a professional certification acquired after completion of a clinical fellowship year.</p> <p><i>With authorization to issue a provisional license, the Board is able to resolve a long-standing problem. Other states do not issue full, unrestricted licenses to audiologists without at least a year of supervised, clinical experience, but in order to engage in practice, audiology students in Virginia need some legal authorization or license. Accordingly, the Board has had to issue full licenses prior to the clinical fellowship without any assurance that the applicant has any period of supervised practice and is competent to treat patients as an independent practitioner. With provisional licensure, audiology students can engage in their professional under supervision with greater protection for public health and safety by oversight and, if necessary, intervention by a supervisor.</i></p>
New 171	n/a	Subsection A sets out the requirements for a provisional license to include:

		<p>A completed application and fee, and documentation that the applicant:</p> <ol style="list-style-type: none"> <li>1. Is currently enrolled in a doctoral program in audiology at a college or university whose audiology program is accredited by the Council on Academic Accreditation of the American Speech-Language-Hearing Association or an equivalent accrediting body;</li> <li>2. Has successfully completed all the didactic coursework required for the doctoral degree as documented by the audiology program; and</li> <li>3. Has passed a qualifying examination from an accrediting body recognized by the board within three years preceding the date of applying for provisional licensure in Virginia.</li> </ol> <p><i>If a student holding a provisional license later applies for full licensure, he will only need to submit evidence of being awarded the doctoral degree and his credential issued by ASHA or ABA, indicating that he has completed his clinical experience.</i></p> <p>Subsection B sets the duration of the license at 18 months, which allows a provisional license sufficient time to complete his clinical experience.</p> <p><i>Completion of the year of clinical experience can actually take 12 to 18 months, then the provisional license can automatically be renewed for an additional 6 months. Renewal beyond that will necessitate an appeal to a committee of the board and evidence that the applicant has good cause for needing additional time to complete the clinical experience. The Board wants to ensure that individuals do not become “permanent fellows” working indefinitely with a provisional license.</i></p> <p>Subsection C sets out the responsibility of the provisional licensee to only practice under the supervision of a licensed audiologist in order to obtain the clinical experience required for licensure and to be responsible and accountable for the safe performance of those direct patient care tasks to which he has been assigned.</p> <p><i>This provision is necessary to clearly state that a provisional licensee is accountable for his actions in patient care and can only practice with supervision. A provisional licensee practices under this chapter in which the Board has the authority in section 280 to refuse to issue a license or to take disciplinary action for a variety of conduct considered unprofessional – such as inability to practice with skill and</i></p>
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		<p><i>safety or incompetence or negligence in the practice of the profession</i></p> <p>Subsection D sets out the responsibilities of licensed audiologists who are providing supervision to include:</p> <ol style="list-style-type: none"> <li>1. Documenting the frequency and nature of the supervision of provisional licensees;</li> <li>2. Being responsible and accountable for the assignment of patients and tasks based on their assessment and evaluation of the provisional licensee’s knowledge and skills; and</li> <li>3. Monitoring clinical performance and intervening if necessary for the safety and protection of the patients.</li> </ol> <p><i>While subsection C establishes that the provisional licensee is responsible for the direct patient care tasks to which he has been assigned, the supervisor is responsible for evaluating the knowledge and skills of the provisional person and assigning tasks accordingly. The supervisor must also document the supervision, monitor patient care and, if necessary, intervene for the protection of patients. Responsibilities for a supervisor are consistent with standards set by the credentials bodies and with those in other professions, such as nursing.</i></p> <p>Subsection E specifies that the identity of a provisional licensee shall be disclosed to the client prior to treatment and shall be made a part of the client's file.</p> <p><i>It is important for the health and safety of patients that they know that the licensure of their treating practitioner. Disclosure can be accomplished by a variety of means – verbally by the supervisor or provisional licensee, by use of a title on a name tag or by a consent form the patient signs.. Misrepresentation of one's professional credentials could be grounds for disciplinary action or for refusal to issue a full license.</i></p>
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**Regulatory flexibility analysis**

*Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5)*

*the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

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There are no alternatives to the adoption of regulations; it is required by the second enactment clause of HB354. The alternative to provisional licensure would be to grant a full license prior to completion of the doctoral program to allow students to obtain clinical experience, but that is opposed by the educational programs and is not in the best interest of patient safety since those individuals would have full licensure for independent practice without any period of supervised experience.

### Family impact

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

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There is no effect on the family or family stability.